



Good Governance on NPO – AMLA, Challenges and Issues

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Bank Negara Malaysia
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Presentation outline



Background



- **Concept: Money laundering and Terrorism financing**
- **International standards on AML/CFT**
- **Malaysia's AML/CFT regime**



Governance on NPOs – Challenges & Issues



- **NRA and risks of NPO sector**
- **Financing of terrorism methods by ISIL**
- **Relevant red flags on foreign fighters**
- **Findings of the Mutual Evaluation Report 2015 on NPOs**
- **Obligations of NPOs**
- **Conclusion**



Background: Understanding Money Laundering & Terrorism Financing

- i. **'Money laundering'** = Process by which illegally obtained funds are **given the appearance of having been legitimately obtained**.
- ii. Criminals will bring the money into legitimate financial system without raising suspicion.



- iii. The conversion of cash into other forms makes it more useable. It also puts a distance between the criminal activities and the funds.



- i. **'Terrorism financing'** = Process of financing terrorist activity either through **legitimate** or **illegitimate** source.
- ii. Financing could be in various forms e.g. for the purpose of travelling, sustenance and arms.
- iii. Could be transferred through legitimate or illegitimate channels



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International Typologies: NPO may likely be abused to TF
However, preventive measures used for ML may also be used for TF

Background: Overview of International Standards on Anti-money Laundering and Counter Financing of Terrorism (AML/CFT)

Malaysia Complies with International Standards on Money Laundering & Terrorism Financing

UN Conventions and Resolutions

The Vienna Convention

Security Council Resolution 1373

The Palermo Convention

Security Council Resolution 1267, **2161, 2170, 2178 & 2235**

UNSCRs on Foreign Fighters

International Convention for the Suppression of the Financing of Terrorism



Financial Action Task Force (FATF)

- Issues AML/CFT international standards
- Main principles under the Resolutions and Conventions have been embedded into the FATF international standards
- **Malaysia recently becomes a member of FATF in February 2016**



All countries are members of a FATF regional bodies (except Iran and DPRK)

APG - Malaysia is a member

MENAFATF

GIABA

CFATF

MONEYVAL

GAFISUD

EAG



Background: International Standard Setting body: the Financial Action Task Force

Background

- An inter-governmental policy making body, comprised of over 39 countries and international organisations
- Established under the G7 platform
- ministerial mandate to establish international standards for AML/CFT
- Over 180 jurisdictions have joined the FATF or an FATF-style regional body, and committed at the ministerial level to implementing the FATF standards
- Malaysia is a full member of the FATF since February 2016

Function

- Sets international standards to combat ML/TF
- Assesses and monitors compliance with the FATF standards.
- Conducts typologies studies of ML/TF methods, trends and techniques
- Responds to new and emerging threats, such as proliferation financing

Action

- International standards and methodology for assessment
- Undertake Mutual Evaluation
- Provision of guidance , best practice papers, red flags and typologies
- Blacklisting of non-compliance in the public statements

i International standards: **NPO regulation and supervision** is included in Recommendation 8 and immediate outcome 10 to protect NPO abuse for terrorism financing

Background: Domestic framework

Robust framework a pre-requisite for effective AML/CFT regime

Criminalisation of ML/TF

- AMLA
- 362 serious offences from 44 legislations

Freezing, seizure & forfeiture of properties

- Moveable/immovable;
- inside/outside Malaysia;
- with/without prosecution.
- Terrorist properties – UNSCR

National Coordination

- 16 Ministries/Gov. Agencies
- Since year 1999

Foreign FIUs & counterparts

- MoU signed with Foreign Counterparts
- Exchange of information under Egmont Group
- Joint partnership with strategic partners

International/regional bodies

- FATF, APG, Egmont Group
- Mutual evaluation

Legal
Framework

Preventive
Measures

Domestic &
International
Cooperation

Financial
Intel. &
Investigations

Reporting Institutions (RIs)

- 44,264 RIs
- Detect & deter ML/TF
- Carry out institutional risk assessment
- AML/CFT reporting & compliance programme
- Submission of reports to FIU
- Customer due diligence
- Record keeping

Financial Intelligence and Investigations

- Adequate investigation powers
- Fully functional Financial Intelligence Unit (FIU)
- Dedicated AMLA unit in key law enforcement agencies
- Structured/comprehensive training program for fin. investigation

Background : Implementation of Malaysia's AML/CFT Regime

Based on integrated & consultative approach among key stakeholders

Key Legislation

Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001 (AMLA) – Bank Negara Malaysia acts as Malaysia's Financial Intelligence Unit

National Coordination Committee to Counter Money Laundering (NCC)

Objectives:

- ✓ Develop national policy measures to counter ML/TF
- ✓ Develop and ensure proper implementation of measures to counter ML/TF based on internationally accepted standards, i.e. the FATF Recommendations (Feb 2012)

Agencies / Number of Offences under the Agencies' Purview

All Enforcement Agencies under the AMLATFA (2 Offences)

SUPERVISORY / REGULATORY		ENFORCEMENT		POLICY	
• Bank Negara Malaysia	44	• Inland Revenue Board	3	• Ministry of Domestic Trade Co-operatives and Consumerism	10
• Securities Commission	12	• Malaysian Anti-Corruption Commission	10	• Ministry of International Trade and Industry	13
• Companies Commission of Malaysia	21	• Royal Malaysian Customs Department	10	• Attorney General's Chambers	-
• Labuan Financial Services Authority	27	• Royal Malaysia Police	176	• Ministry of Finance	-
• Registrar of Societies	-	• Immigration Department of Malaysia	2	• Ministry of Foreign Affairs	-
		• Malaysian Palm Oil Board*	4	• Home Ministry	-
		• Department of Wildlife and National Parks*	28		

Number of Predicate Offences under AMLA

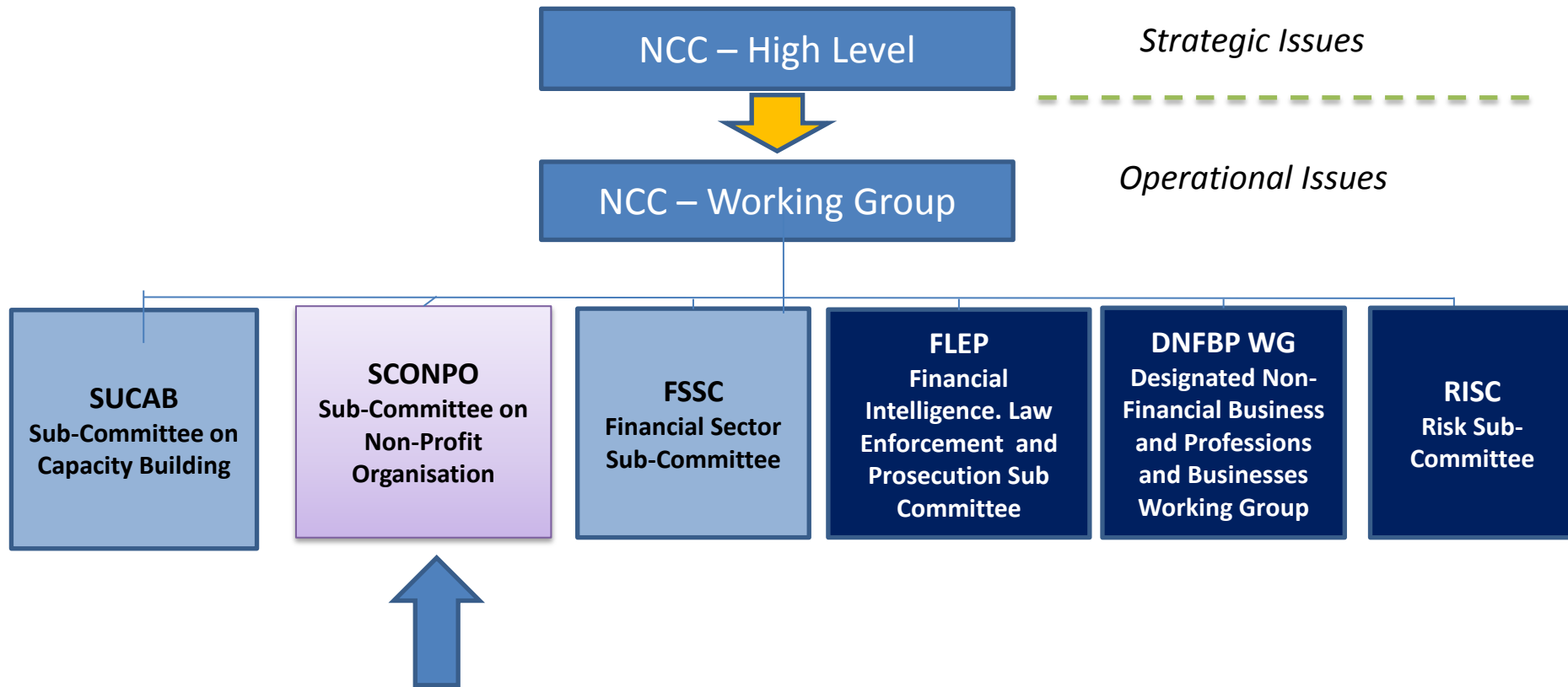
362 offences from 44 legislations

** Not NCC members*

Total Number of Reporting Institutions under AMLA

44,264 Reporting Institutions from 8 Categories

Background: the NCC and the Sub-Committees



NPOs are not reporting institutions under the First Schedule of AMLA but **are subject to AML/CFT standards regulated by CCM, Labuan FSA, RoS and BHEUU** who are members of Sub-Committee on NPOs (SCONPO) under the NCC

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How ML/TF risks are viewed? NRA and where NPOs are placed overall.

		<i>Likelihood</i>		
		POSSIBLE	LIKELY	VERY LIKELY
Extent of Vulnerability	HIGH		Legal Entities* – onshore / offshore	• Casino
	MEDIUM	<ul style="list-style-type: none"> • Gaming Companies • Jewellers • Accountants 	<ul style="list-style-type: none"> • Offshore Trust • Company Secretaries • Real Estate • Trust Companies <div style="background-color: #800000; color: white; padding: 2px; display: inline-block;">Non Profit Orgs.</div>	• Lawyers
	LOW	<ul style="list-style-type: none"> • Pawn Brokers • Notaries 		

* Companies and partnerships

Level of risks:

High

Medium

Low

How NPO Sector could be abused by Terrorist financiers?

- regular dealings with large amounts of cash
- global presence
- operate in high-risk/ conflict areas
- exposure to a large number of beneficiaries

Vulnerability Factors

Form of Abuse

- Raising and moving funds
- Providing logistical support
- Encouraging terrorist recruitment
- Other support

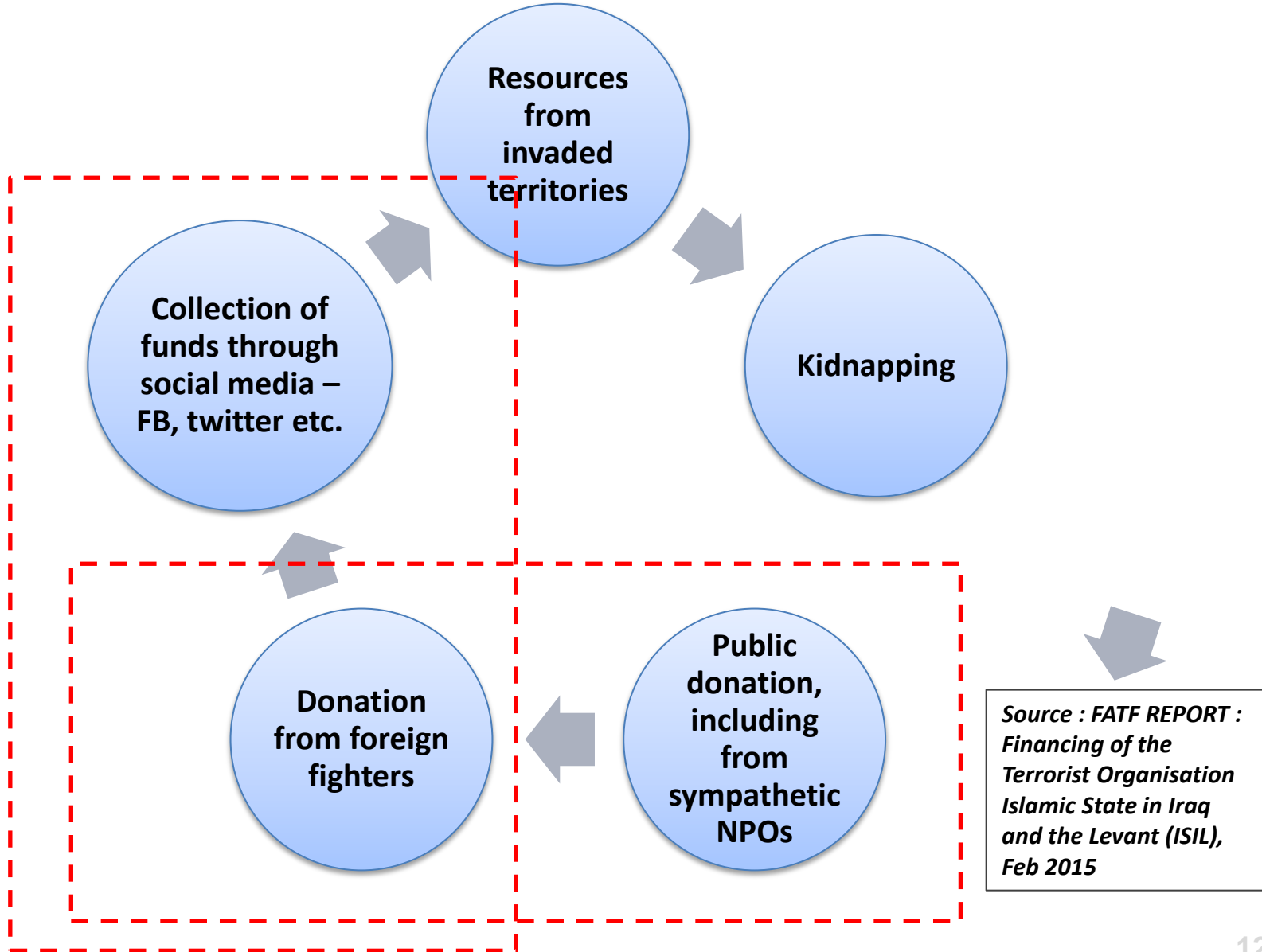
Nature of Involvement

Areas where can be abused

- complicit
- non-complicit (exploited)
- some complicit official(s)

- to its finances
- to its operations
- provision of material resources
- to its personnel

Example of Financing of Terrorism methods - Islamic State in Iraq and the Levant (ISIL)



Examples : Terrorism Financing Trends: Foreign Terrorist Fighters (FTFs)

- Some of the emerging red flags related to ISIL identified:
 - ✓ traditional method i.e. physical cash movement remains prevalent
 - ✓ legitimate source of income like salary, savings and donation from sympathizer, followed by withdrawal from international locations
 - ✓ **Donation pledge via social networks, crowdfunding (Kickstarter, Indiegogo, GoFundMe, etc..) and fundraising advertisement on social sites**
 - ✓ **Donating to certain vulnerable NPOs**
 - ✓ **Employees of Non-Profit Organizations (NPO) misappropriating funds, where funds are withdrawn prior to departing to conflict zones**
 - ✓ **Receiving funds from or sending funds to seemingly unrelated individuals, or relatives or associates, who are located near cities with a reported ISIL/al-Qa'ida presence, where the transactions do not appear to have a lawful business purpose.**
- Method of movement of funds:
 - ✓ New payment method offering anonymity and global-future such as prepaid cards, virtual currency and online payment system
 - ✓ fund transfers via money value transfer services to countries adjacent to conflict zones, sometimes requiring assistance from Embassy due to a lack of documentation

Red flags relevant to NPOs

Findings & recommendations of the MER 2015 relevant to NPOs on the regulators

Regulators to enhance the risk-based approach to outreach and supervision of the NPO sector

- More on-site supervision on high risk NPOs

Increase compliance with reporting requirements for NPOs

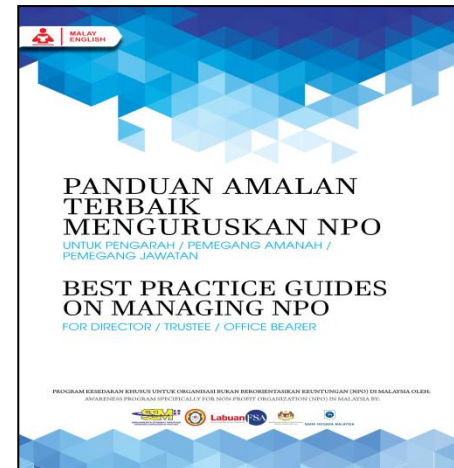
- Compliance by NPOs in accordance to the laws e.g. submission of financial statement, transparency in management of the NPOs

Enhance awareness/ outreach on TF risks and vulnerabilities to NPO Sector

- NPOs to participate more actively in outreach programmes and awareness sessions conducted by regulators

Recommendations for NPOs

- ✓ NPOs must be cautious and take precautionary measures from being abused for the purpose of financing of terrorism NPO such as being misused to collect funds for financing of terrorism
- ✓ NPOs need to ensure that financial activities are recorded and maintained in proper manner
- ✓ NPOs are required to ensure that the funds are being channeled / used for legitimate and approved activities
- ✓ NPO shall comply with all the regulations and applicable laws governing them
- ✓ NPOs' management must be transparent and have integrity:
 - Selection of individuals to collect funds on behalf of the NPOs
 - NPOs are administered in accordance to the mandate and constitution of the NPOs
 - Clarity in the functions and responsibilities of the members, management and board of trustees
 - Know your beneficiaries, donors and affiliated NPOs



CONCLUSION :

How to Protect NPOs from being Exploited

Good Governance

KNOW

- Donors
- Beneficiaries
- Members, managers and board of trustees
- Other affiliate NPOs



RECORD

- All programmes and related activities
- Donors and beneficiaries (where practicable)
- All financial transactions



MANAGE

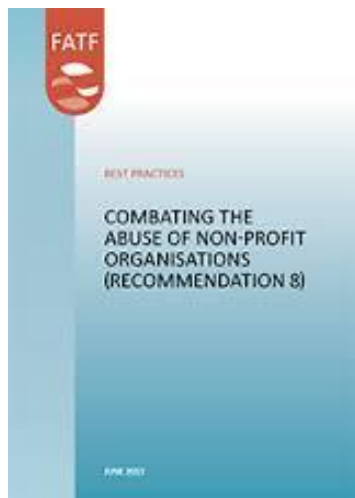
- Good management of risks
- Compliance with the relevant regulations/ law



Resources



- **FATF Documents:**
 - International Standards for combating money laundering and the financing of terrorism & proliferation
 - Best Practice on Combating the Abuse of Non-Profit Organisations (Recommendation 8)
 - Report of Terrorist Abuse in Non-Profit Organisations.



THANK YOU

*Untuk maklumat lanjut, sila layari:
<http://amlcft.bnm.gov.my>*

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